

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	
)	Proceeding Under Sections
Great Western Dock)	114(a)(1) of the Clean Air Act, 42 U.S.C.
And Terminal)	§ 7414(a)(1)
St. Paul, Minnesota)	
)	

Agreed Administrative Consent Order and Information Request

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order and Information Request to Great Western Dock and Terminal (Great Western) under Section 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7414(a)(1).

Statutory and Regulatory Background

2. The CAA is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1).

3. Section 108(a) of the CAA, 42 U.S.C. § 7408(a), requires the Administrator of EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such "criteria" pollutant, Section 109 of the CAA, 42 U.S.C. § 7409, requires EPA to promulgate national ambient air quality standards (NAAQS) to protect the public health and welfare. See 40 C.F.R. Part 50.

4. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a State Implementation Plan (SIP) that provides for the implementation, maintenance, and enforcement of the NAAQS. Section 110 also requires that

each SIP contain adequate provisions prohibiting any source within the state from emitting any air pollutants in amounts which will interfere with attainment or maintenance of the NAAQS or cause significant deterioration of air quality in any other state. See 40 C.F.R. Part 52.

5. EPA approved Minnesota Rule Chapter 7009, Ambient Air Quality Standards, as part of the federally enforceable Minnesota SIP on May 24, 1995. 60 Fed. Reg. 27411,

6. EPA approved revisions to Minn. Rule Chapter 7009, Ambient Air Quality Standards, as part of the federally enforceable Minnesota SIP on October 11, 2011. 76 Fed. Reg. 49303.

7. Minnesota Rule 7009.0020, Prohibited Emissions, provides:

No person shall emit any pollutant in such an amount or in such a manner as to cause or contribute to a violation of any ambient air quality standard beyond such person's property line, provided however, that in the event the general public has access to the person's property or portion thereof, the ambient air quality standards shall apply in those locations. The general public shall not include employees, trespassers, or other categories of people who have been directly authorized by the property owner to enter or remain on the property for a limited period of time and for a specific purpose.

(See 60 Fed. Reg. 27411; 76 Fed. Reg. 49303).

Definitions

8. "ASTM" shall mean the American Society for Testing and Materials.

9. "Facility" shall mean the Great Western Dock and Terminal facility located at 1031 Childs Road, St. Paul, Minnesota.

10. "MPCA" shall mean the Minnesota Pollution Control Agency.

11. "PM" shall mean particulate matter.

12. "PM₁₀" shall mean particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

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13. "PM₁₀ Continuous Air Monitor" shall mean a PM₁₀ Continuous Federal Equivalent Method monitor.
14. "PM₁₀ Filter-Based Air Sampler" shall mean a PM₁₀ Federal Reference Method sampler.
15. "Petroleum Coke" or "petcoke" shall mean a solid carbon material which is a by-product of the oil refining process that can be used as a fuel source for various industries.
16. "Operate" shall mean using the Facility to store, handle, unload and load for transport, or dispose of Petroleum Coke.

Findings

17. Great Western is located at 1031 Childs Road in St. Paul, Minnesota.
18. Northern Metals, LLC (dba Northern Metal Recycling) acquired Great Western in 2006.
19. The Facility stored and handled, among other things, petcoke.
20. MPCA issued Great Western an air emission permit (Permit No. 1387-90-OT-30) on December 31, 1990.
21. Special Condition I, Ambient Standards, of Great Western's air emission permit provides that Great Western shall comply with, among other things, the State Ambient Air Quality Standards, and with National Primary and Secondary Ambient Air Quality Standards, 40 C.F.R. Part 50.
22. On March 11, 2015, EPA issued a 114 information request requiring Great Western to install air monitors for PM at the Facility.

23. On March 25, 2015, Great Western provided a partial response and requested a 30-day extension to respond to the monitoring requirements of the March 11, 2015, 114 information request.

24. On April 21, 2015, EPA discussed the 114 information request with representatives of Great Western.

Compliance Program

25. By December 31, 2014, Great Western ceased operating the Facility as a petcoke storage and/or handling facility, except for the allowance detailed in Paragraph 27.

26. By December 31, 2014, Great Western removed all petcoke from the Facility, including all piles and residual petcoke material, except for the allowance detailed in Paragraph 27.

27. Great Western may elect to store and/or handle petcoke, in which case the Facility must install at least one PM₁₀ Filter-Based Air Sampler and at least one PM₁₀ Continuous Air Monitor, as detailed in Appendix A.

28. If Great Western elects, per Paragraph 27, to store and/or handle petcoke at the Facility, Great Western shall submit to MPCA, by August 1, 2015, a permit modification application that incorporates all monitoring requirements detailed in Appendix A.

29. On September 1, 2015, Great Western shall submit a Status Report to EPA, certifying that all petcoke has been removed from the Facility. Great Western shall also submit to EPA all MPCA permitting correspondence upon submission or receipt.

30. Great Western must send all reports and correspondence required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard

Chicago, Illinois 60604

And to miller.patrick@epa.gov

General Provisions

31. Great Western agrees to the terms of this Order and further agrees that it will not contest the basis or validity of this Order. Great Western waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that it may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review of this Order under 42 U.S.C. § 7607(b)(1) or 5 U.S.C. §§ 701-706.

32. This Order does not affect Great Western's responsibility to comply with other federal, state, and local laws.

33. This Order does not restrict EPA's authority to enforce Section 112 of the CAA, 42 U.S.C. § 7412, or any other section of the CAA.

34. Nothing in this Order limits EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for any violations of the CAA identified at the Great Western Facility.

35. Failure to comply with this Order may subject Great Western to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

36. The terms of this Order are binding on Great Western, its assignees, and successors. Great Western must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

37. Great Western may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Great Western fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

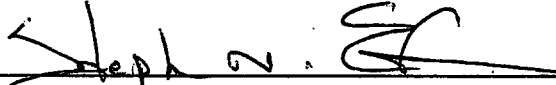
38. This order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. Please submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

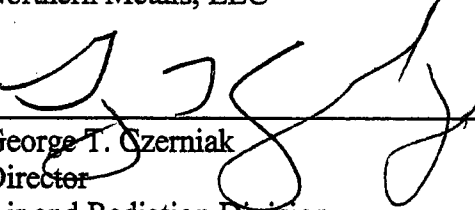
39. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

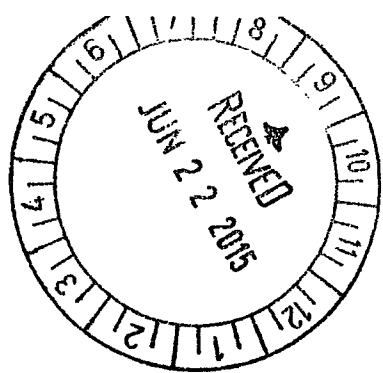
40. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Great Western has complied with all terms of the Order throughout its duration.

6-12-2015
Date

7/22/15
Date


Stephen N. Ettinger
President
Northern Metals, LLC


George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5



Appendix A

If Great Western Dock and Terminal (Great Western) intends to store and/or handle petroleum coke ("petcoke") at its facility, located at 1031 Childs Road, St. Paul, Minnesota, Great Western must notify EPA in writing to the address listed in Item 20, below. The following requirements apply to the Great Western facility prior to petcoke being present at the Facility.

PM₁₀ Monitors and Siting

1. Great Western shall install at least one PM₁₀ Filter-Based Air Sampler and at least one PM₁₀ Continuous Air Monitor, as detailed below, if the facility elects to store and/or handle petcoke at its facility.
2. Sixty (60) days prior to the arrival of any petcoke, Great Western shall submit at least two possible monitoring site locations and a single proposed location for EPA review and approval prior to establishing the monitoring sites. The proposal for monitoring site locations shall include a map showing the property lines of the facility, the locations of nearby residences and industrial properties, and proposed locations of the monitoring sites. The monitoring site shall be placed in the prevailing downwind location. Great Western shall submit an annual wind rose and four seasonal wind roses showing wind patterns as reported for the past five years at the nearest available meteorological station.
3. Within 30 days of EPA approval of the monitoring site location specified in Item 2, Great Western shall install, operate, and maintain at least one ambient monitoring site at the facility. The site shall contain at least one continuous Federal Equivalent Method (FEM) real-time PM₁₀ monitor. The site shall contain at least one Federal Reference Method (FRM) PM₁₀ filter-based monitor operating every third day.
4. The monitoring site and monitoring equipment shall conform with the following requirements:
 - a. The PM₁₀ real-time and filter-based instruments shall meet all of the specifications of FRM/FEM monitors on this list;
www.epa.gov/ttn/amtic/files/ambient/criteria/reference-equivalent-methods-list.pdf;
 - b. Great Western shall follow all monitoring, siting, and quality assurance criteria in 40 CFR Part 58, Appendix E;
 - c. PM₁₀ concentrations from filter-based sampling shall be determined according to 40 CFR Part 50, Appendix J – "Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere";

- d. All data collected shall be consistent with units in the National Ambient Air Quality Standards for PM₁₀; and
 - e. A data logger shall be attached to the monitors to record readings from the continuous monitors.
5. Great Western shall follow all monitoring, siting, and quality assurance criteria as detailed in 40 CFR Part 58, Appendix A "Quality Assurance Requirements for SLAMS, SPMs, and PSD Air Monitoring" and Appendix D "Network Design Criteria for Ambient Air Quality Monitoring."
 6. The monitors shall be operated in accordance with operating procedures identified in the Quality Assurance Handbook for Air Pollution Measurement Systems "Volume I: A Field Guide to Environmental Quality Assurance" and "Volume II: Ambient Air Quality Monitoring Program."
 7. Great Western shall be responsible for all operation and maintenance associated with the PM₁₀ monitors. Great Western shall properly change the PM₁₀ filters in all sampling devices. Maintenance shall include, at a minimum, the replacement of any equipment and cleaning on a schedule specified in the manufacturer's maintenance manual.
 8. Great Western shall order and pay for any necessary replacement parts, accessories, maintenance, etc.
 9. Great Western shall archive all filters from the PM₁₀ filter-based instruments for at least two years.
 10. Monitoring shall take place for at least one year from the date of installation.

Wind Speed and Direction Monitoring

11. Great Western shall install a meteorological tower at a location representative of local wind conditions. At a minimum, the meteorological tower must continuously measure and record wind speed and wind direction at one-hour intervals throughout the entire ambient monitoring period. Great Western shall correlate 1-hr and 24-hr ambient PM₁₀ measurements with wind speed and wind direction data to determine source direction and the effects of wind speed on PM₁₀ concentrations (e.g., a pollution wind rose that displays the pollution concentration and wind direction frequency). The meteorological tower must also include calibrated ambient temperature and pressure instrumentation for purposes of determining corrected (actual) PM₁₀ concentrations as recorded by the monitors. Great Western shall maintain and/or submit reports and records in accordance with the paragraphs 17-20, below.

12. With respect to the meteorological monitoring site, Great Western shall follow the Quality Assurance Handbook for Air Pollution Measurement Systems Volume IV: Meteorological Measurements Version 2.0 (Final) found at: http://www.epa.gov/ttnamti1/files/ambient/met/Volume%20IV_Meteorological_Measurements.pdf
13. The internal clocks of all PM₁₀ analyzers, data loggers, and the wind speed and wind direction data logger shall be synchronized to within 60 seconds of each other (local time and not adjusted for Daylight Savings Time) and shall be checked against a calibrated reference clock at least once every 30 days. Instrument clocks that are more or less than 60 seconds from the reference clock shall be reset to within 60 seconds of the reference clock. Each of these inconsistencies and each reset time shall be noted in the study log.
14. Great Western shall be responsible for maintenance associated with the meteorological tower on a schedule specified in the manufacturer's maintenance manual. Great Western shall order and pay for any necessary replacement parts, accessories, maintenance, etc.

General Requirements Applicable to All Requests

15. Within 30 days of EPA approval of the monitoring sites, Great Western shall submit a Quality Assurance Project Plan (QAPP) to EPA. The guidance document for writing a QAPP is "EPA Guidance for Quality Assurance Project Plans," EPA QA/G-5, EPA/600/R-02/009 - December 2002. The guidance is available at <http://www.epa.gov/QUALITY/qs-docs/g5-final.pdf>.
16. Great Western shall provide EPA access to the monitoring sites and respond to any inquiries regarding monitor siting, operations, or maintenance. In the event that an inspector or auditor identifies problems, Great Western shall take appropriate corrective actions. Any changes made to monitor siting, operations, or maintenance shall be approved by EPA prior to the change.
17. Great Western shall keep a daily log and monthly reports of the following information:
 - a. Each site visit and operator activities;
 - b. Any monitoring system downtime (date, time, duration, and reason) along with any corrective actions taken;
 - c. Any possible interferences observed by the operator such as nearby construction or demolition; and
 - d. Any calibration data provided by the manufacturer or performed by Great Western.

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18. Hourly data from each monitor and meteorological monitoring site, and 24-hour data from gravimetric monitors shall be downloaded as ASCII comma-delimited files and provided to EPA on CD every month. The files should have a single "header" row, with all following rows being individual records, and all columns being a single variable according to the header row. All filter analysis data, including any specification data shall also be provided.
 19. Monthly reports and data specified in Items 17 and 18 above shall be submitted to EPA for a period of at least one year. Each report is due within 14 days of the end of the month being reported. At the end of 12 months, Great Western may apply to EPA for a modification or termination of this request. At that time, EPA will re-evaluate and adjust, if necessary, the Section 114(a) request.
 20. Great Western shall submit these monthly reports to:

Attn: Compliance Tracker, AE-17J
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

and also submit the information via electronic mail to miller.patrick@epa.gov and
to cantello.nicole@epa.gov.

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Agreed Administrative Consent Order and Information Request by certified mail, return receipt requested, to:

Stephen N Ettinger
Northern Metal Recycling
2800 Pacific Street North
Minneapolis, Minnesota 55411

Jack Perry
Briggs and Morgan
80 South Eighth Street
Minneapolis, Minnesota 55402

7009 1680 0000 7644 3425

I also certify that I sent a copy of the Administrative Consent Order and Information Request by first-class mail to:

Katie Koelfgen
Land and Air Compliance
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, Minnesota 55155-4194

on the 24th day of July, 2015.



Loretta Shaffer
Program Technician
AECAB/PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7644 3418